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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 GYPSY05, INC., a California
13 Corporation,

14 Plaintiff,

15
16 v.

17 BCBG MAX AZRIA GROUP, a
18 California Corporation, individually and
19 d/b/a "BCBGENERATION"; LORD &
20 TAYLOR LLC, a New York Limited
Liability Corporation; and DOES 1-10,

21 Defendants.
22

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

23 Gypsy05, Inc., by and through its undersigned attorneys, hereby prays to this
24 honorable Court for relief based on the following:
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1 without Plaintiff's knowledge or consent or have contributed to said infringement.
2 The true names, whether corporate, individual or otherwise of Defendants Does 1-10,
3 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
4 by such fictitious names and will seek leave to amend this complaint to show their
5 true names and capacities when same have been ascertained.

6 8. Defendants Does 1 through 10, inclusive, are other parties not yet
7 identified who have infringed Plaintiff's copyrights, have contributed to the
8 infringement of Plaintiff's copyrights, or have engaged in one or more of the
9 wrongful practices alleged herein. The true names, whether corporate, individual or
10 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff,
11 which therefore sues said Defendants by such fictitious names, and will seek leave to
12 amend this Complaint to show their true names and capacities when same have been
13 ascertained.

14 9. Plaintiff is informed and believes and thereon alleges that at all times
15 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
16 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
17 at all times acting within the scope of such agency, affiliation, alter-ego relationship
18 and/or employment; and actively participated in or subsequently ratified and adopted,
19 or both, each and all of the acts or conduct alleged, with full knowledge of all the
20 facts and circumstances, including, but not limited to, full knowledge of each and
21 every violation of Plaintiff's rights and the damages to Plaintiff proximately caused
22 thereby.

23 **CLAIMS RELATED TO DESIGN NUSA DUA**

24 10. Plaintiff owns an original two-dimensional artwork entitled NUSA DUA
25 (the "Subject Design"). The Subject Design figured heavily on garments in Plaintiff's
26 proprietary line of apparel.
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1 Taylor under a number of style numbers, including without limitation, Style No.
2 BAE7C557-1F5.

3 15. A comparison of true and correct images of an exemplar of Plaintiff's
4 garment featuring Subject Design (top) and an exemplar of Subject Product (bottom)
5 is displayed below:

6 Plaintiff's Garment Exemplar:



16 Subject Product Exemplar:



1 they had the right and ability to supervise the infringing conduct and because they
2 had a direct financial interest in the infringing conduct.

3 28. By reason of the Defendants', and each of their, acts of contributory and
4 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
5 suffer substantial damages to its business in an amount to be established at trial, as
6 well as additional general and special damages in an amount to be established at trial.

7 29. Due to Defendants' acts of copyright infringement as alleged herein,
8 Defendants, and each of them, have obtained direct and indirect profits they would
9 not otherwise have realized but for their infringement of the Subject Design. As such,
10 Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly
11 attributable to Defendants' infringement of the Subject Design, in an amount to be
12 established at trial.

13 30. Plaintiff is informed and believes and thereon alleges that Defendants',
14 and each of their, acts of infringement was willful or in reckless disregard of
15 Plaintiff's copyrights. As such, Plaintiff will seek enhanced statutory damages and/or
16 an order precluding Defendants, and each of them, from claiming overhead costs,
17 apportionment, and/or any equitable defense.

18 **PRAYER FOR RELIEF**

19 Wherefore, Plaintiff prays for judgment as follows:

20 **Against All Defendants**

21 **With Respect to Each Claim for Relief**

- 22 a. That Defendants, their agents and employees be enjoined from
23 infringing Plaintiff's copyrights in any manner, specifically those for the
24 Subject Design;
- 25 b. That Plaintiff be awarded all profits of Defendants plus all losses of
26 Plaintiff, plus any other monetary advantage gained by the Defendants
27 through their infringement, the exact sum to be proven at the time of
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1 trial, or, if elected before final judgment, statutory damages as available
2 under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*;

3 c. That Plaintiff be awarded its costs and attorneys' fees as available under
4 the Copyright Act U.S.C. §§ 101, *et seq.*;

5 d. That Plaintiff be awarded pre-judgment interest as allowed by law;

6 e. That Plaintiff be awarded the costs of this action; and

7 f. That Plaintiff be awarded such further legal and equitable relief as the
8 Court deems proper.

9 A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND
10 CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

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12 Dated: April 29, 2015

By: /s/ Scott Alan Burroughs
Scott Alan Burroughs, Esq.
Trevor W. Barrett, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff
GYPSY05, INC.